

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>PATRICK HENRY MURPHY,</b>	§	
	§	
<b>Petitioner,</b>	§	
	§	
<b>V.</b>	§	<b>CIVIL ACTION NO. 3:09-cv-01368-L</b>
	§	<b>ECF</b>
<b>RICK THALER,</b>	§	<b>(Death Penalty Case)</b>
<b>Director, Texas Department of</b>	§	
<b>Criminal Justice, Correctional</b>	§	
<b>Institutions Division,</b>	§	
	§	
<b>Respondent.</b>	§	

**PETITIONER'S APPLICATION**  
**FOR ORDER AUTHORIZING RELEASE OF COMPETENCY EVALUATION**  
**AND UNDERLYING DOCUMENTATION**

Patrick Henry Murphy, Petitioner, respectfully requests that this Court issue the attached order authorizing the release of all records relating to Mr. Murphy's competency to stand trial evaluation. This motion is made pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and other authority cited herein. In support of this application, counsel states:

1. Mr. Murphy was convicted of capital murder and sentenced to death on November 13, 2003, in case number F01-00328 in the 283<sup>rd</sup> District Court of Dallas County, Texas.
2. Counsel has learned that prior to trial, Dr. Lisa Clayton conducted a psychiatric evaluation of Mr. Murphy to determine his competence to stand trial.
3. Counsel forwarded to Dr. Clayton a request for her complete file on Mr. Murphy, including her report, all raw data, and all interview notes, as well as a signed release from Mr.

Murphy. Dr. Clayton informed counsel that she would require a court order to release the requested information.

4. Counsel requires access to the requested information in order to investigate all potentially viable claims in these proceedings and to vindicate Mr. Murphy's rights to due process and effective assistance of counsel. *See, e.g., Strickland v. Washington*, 466 U.S. 668 (1984); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Rompilla v. Beard*, 545 U.S. 374 (2005). For instance, the information in Dr. Clayton's files could well reveal information supporting a claim that trial counsel was ineffective for failing to challenge Mr. Murphy's competence to stand trial more vigorously or for failing to investigate and present information contained in the files during the punishment phase of the trial.

WHEREFORE, Mr. Murphy respectfully requests that the Court grant this motion authorizing disclosure of Mr. Murphy's competency evaluation and all underlying documentation. A proposed order is attached to this motion.

DATED: December 14, 2009

Respectfully submitted,

/s/ David R. Dow  
David R. Dow  
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*Counsel for Patrick Henry Murphy*

**CERTIFICATE OF SERVICE**

On December 14, 2009, I served an electronic copy of this pleading on counsel for the Respondent by filing the foregoing document with the Clerk of the Court for the U.S. District Court, Northern Division of Texas, using the electronic case filing system of the court.

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/s/ David R. Dow

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David R. Dow

